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7 Attorneys for Christina Lovato, Trustee

8
 9 **UNITED STATES BANKRUPTCY COURT**

10 **DISTRICT OF NEVADA**

11 In re
 12 META MATERIALS INC.,
 13 Debtor.

Case No.: 24-50792-hlb
(Chapter 7)

14
 15 **EX PARTE MOTION FOR ORDER**
REQUIRING CUSTODIAN OF
RECORDS FOR CHARLES SCHWAB &
CO. INC. TO APPEAR FOR
EXAMINATION PURSUANT TO
F.R.BANKR.P. 2004 AND TO PRODUCE
RECORDS

16
 17 Hearing Date: N/A
 18 Hearing Time: N/A

20 Pursuant to Federal Rule of Bankruptcy Procedure 2004 and Local Rule 2004, Christina
 21 Lovato, Chapter 7 Trustee for the Estate of Meta Materials Inc. (“Trustee”), by and through her
 22 undersigned counsel, respectfully applies to this Court for an *Ex Parte* Order requiring the
 23 Custodian of Records of Charles Schwab & Co. Inc. (“Schwab”), to appear as set forth in a
 24 subpoena to be issued pursuant to Federal Rule of Bankruptcy Procedure 9016, at a time, place
 25 and date to be mutually agreed upon by the parties, or if no such agreement is reached, upon no
 26 less than fourteen (14) calendar days written notice by the Trustee for examination, regarding the
 27 Debtor’s assets, liabilities, and financial condition.

28 This Motion is supported by the following Memorandum of Points and Authorities.

1 DATED this 6th day of March, 2025.

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4 /s/ Clayton P. Brust
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 6 CLAYTON P. BRUST, ESQ.
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10 **MEMORANDUM OF POINTS AND AUTHORITIES**

11 F.R.Bankr.P. 2004 provides, in relevant part, that upon motion of any party in interest, the
 12 court may order the examination of the debtor or any other entity regarding the acts, conduct,
 13 property, liabilities and financial conditions of the debtor, or any other matter which affects the
 14 administration of the debtor's estate or the debtor's right to a discharge. Rule 2004 further provides
 15 that production of documents may be compelled at this examination.

16 The Trustee seeks to conduct oral examination relating to the Debtors' assets, liabilities,
 17 and financial affairs to ascertain the facts and circumstances surrounding potential manipulation
 18 of Debtor's share prices from September 21, 2020 through August 7, 2024, and how the
 19 manipulation affected Debtor's financial condition for possible recovery on behalf of Debtor's
 20 estate. The Trustee also seeks to compel production of the following documents from Schwab (all
 21 documents of which are for the time frame of September 21, 2020 through August 7, 2024, and in
 22 respect to Meta, MMTLP, or other CUSIPs or legend identifiers pertaining to Meta or MMTLP):

- 23 1. All records of order routing instructions for shares Meta and/or MMTLP received
 24 by Broker from a customer, such as the relevant security, quantity, or price,
 25 through an electronic interface or any other means of receiving such instructions
 26 and all records of responses sent to a customer related to Broker executing such
 27 instructions.
- 28 2. All messages relating to the routing of orders for shares Meta and/or MMTLP of

any type using FIX or binary protocol or any other protocol used for similar purposes, in the original format the data was saved, routed to an exchange or off-exchange trading venue on behalf of a customer of Broker and received from an exchange or off-exchange trading venue on behalf of a customer of Broker.

3. All communications electronically stored in the original format captured, including transactions records and emails, related to locating, securing, borrowing, and delivering shares of Meta and/or MMTLP, including records of instances where Broker failed to deliver (FTD) Meta and/or MMTLP and records of how Broker rectified the outstanding FTDs.
4. All records of position data representing both Broker's net position as well as the net position of each of Broker's customers in Meta and/or MMTLP, including tallies of shares sold short that were located and/or successfully borrowed as well as shares sold short that were not located and/or successfully borrowed (e.g. the position corresponding to naked short sales), produced at the frequency such data was recorded).

The requested discovery from the Custodian of Records of Schwab is well within the scope of examination permitted under F.R.Bankr.P. 2004, which includes:

[t]he acts, conduct, or property or ... the liabilities and financial condition of the debtors, or ... any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a ...reorganization case under chapter 11 of the Code, ... the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefore, and any other matter relevant to the case or to the formulation of a plan.

WHEREFORE, the Trustee respectfully requests that this Court enter its Order authorizing the examination of the Custodian of Records of Schwab, as described herein. A proposed Order

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1 is attached as **Exhibit 1**.

2 DATED this 6th day of March, 2025.

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EXHIBIT 1

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re
META MATERIALS INC.,
Debtor.

Case No.: 24-50792-hlb
(Chapter 7)

[PROPOSED] ORDER GRANTING EX PARTE MOTION FOR ORDER REQUIRING CUSTODIAN OF RECORDS FOR CHARLES SCHWAB & CO. INC. TO APPEAR FOR EXAMINATION PURSUANT TO F.R.BANKR.P. 2004

Hearing Date: N/A
Hearing Time: N/A

This Court having reviewed the *Ex Parte Motion For Order Requiring Custodian Of Records For Charles Schwab & Co. Inc. to Appear for Examination Pursuant to F.R.Bankr.P. 2004* (the “Motion”) submitted by Christina Lovato, the Chapter 7 Trustee, and for good cause appearing;

IT IS HEREBY ORDERED that the Motion is GRANTED; and

IT IS FURTHER ORDERED that the Custodian of Records of Charles Schwab & Co. Inc., through an appropriate designee(s) shall appear for examination regarding the Debtor’s assets, liabilities, and financial condition, before a certified court reporter at a time, place and date to be mutually agreed upon by the parties, or if no such agreement is reached, upon no less than fourteen (14) calendar days written notice by the Trustee for examination; and

IT IS FURTHER ORDERED that oral examination shall continue from day to day, as

1 necessary.

2 **IT IS FURTHER ORDERED** that Charles Schwab & Co. Inc. shall produce the following
3 documents (time range from September 21, 2020 through August 7, 2024, and in respect to Meta,
4 MMTLP, or other CUSIPs or legend identifiers pertaining to Meta or MMTLP):

- 5 1. All records of order routing instructions for shares Meta and/or MMTLP received
6 by Broker from a customer, such as the relevant security, quantity, or price,
7 through an electronic interface or any other means of receiving such instructions
8 and all records of responses sent to a customer related to Broker executing such
9 instructions.
- 10 2. All messages relating to the routing of orders for shares Meta and/or MMTLP of
11 any type using FIX or binary protocol or any other protocol used for similar
12 purposes, in the original format the data was saved, routed to an exchange or off-
13 exchange trading venue on behalf of a customer of Broker and received from an
14 exchange or off-exchange trading venue on behalf of a customer of Broker.
- 15 3. All communications electronically stored in the original format captured,
16 including transactions records and emails, related to locating, securing,
17 borrowing, and delivering shares of Meta and/or MMTLP, including records of
18 instances where Broker failed to deliver (FTD) Meta and/or MMTLP and records
19 of how Broker rectified the outstanding FTDs.
- 20 4. All records of position data representing both Broker's net position as well as the
21 net position of each of Broker's customers in Meta and/or MMTLP, including
22 tallies of shares sold short that were located and/or successfully borrowed as well
23 as shares sold short that were not located and/or successfully borrowed (e.g. the
24 position corresponding to naked short sales), produced at the frequency such data

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1 was recorded).
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3 Respectfully Submitted By:
4
5 /s/ Clayton P. Brust
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12 *Attorneys for Christina Lovato, Trustee*